

reporting stations of the U.S. National Weather Service.

(g) Prevented planting benefits under this part apply to irrigated crops where adequate irrigation facilities were in place before the eligible disaster and the acreage was prevented from being planted due to a lack of water resulting from drought conditions or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

(h) For NAP covered crops, prevented planting provisions apply according to part 718 of this chapter.

(i) Late-filed crop acreage reports for prevented planted acreage in previous years are not acceptable for CDP purposes.

§ 760.816 Value loss crops.

(a) Notwithstanding any other provisions of this part, this section applies to value loss crops and tropical crops. Unless otherwise specified, all the eligibility provisions of part 1437 of this title apply to value loss crops and tropical crops under this part.

(b) For value loss crops, benefits under this part are calculated based on the loss of value at the time of the damaging weather or related condition, as determined by FSA.

(c) For tropical crops:

(1) CDP benefits for 2005 are calculated according to general provisions of part 1437, but not subpart F, of this title.

(2) CDP benefits for 2006 and 2007 are calculated according to part 1437, subpart F of this title.

§ 760.817 Quality losses for 2005, 2006, and 2007 crops.

(a) Subject to other provisions of this part, assistance will be made available to participants determined eligible under this section for crop quality losses of 25 percent or greater of the value that all affected production of the crop would have had if the crop had not suffered a quality loss.

(b) The amount of payment for a quality loss will be equal to 65 percent of the quantity of the crop affected by the quality loss, not to exceed expected production based on harvested acres, multiplied by 42 percent of the per unit average market value based on per-

centage of quality loss for the crop as determined by the Deputy Administrator.

(c) This section applies to all crops eligible for 2005, 2006, and 2007 crop disaster assistance under this part, with the exceptions of value loss crops, honey, and maple sap, and applies to crop production that has a reduced economic value due to the reduction in quality.

(d) Participants may not be compensated under this section to the extent that such participants have received assistance under other provisions of this part, attributable in whole or in part to diminished quality.

§ 760.818 Marketing contracts.

(a) A marketing contract must meet all of the conditions outlined in paragraphs (b), (c), and (d) of this section.

(b) A marketing contract, at a minimum, must meet all of the following conditions:

(1) Be a legal contract in the State where executed;

(2) Specify the commodity under contract;

(3) Specify crop year;

(4) Be signed by both the participant, or legal representative, and the purchaser of the specified commodity;

(5) Include a commitment to deliver the contracted quantity;

(6) Include a commitment to purchase the contracted quantity that meets specified minimum quality standards and other criteria as specified;

(7) Define a determinable quantity by containing either a:

(i) Specified production quantity or

(ii) A specified acreage for which production quantity can be calculated;

(8) Define a determinable price by containing either a:

(i) Specified price or

(ii) Method to determine such a price;

(9) Contain a relationship between the price and the quality using either:

(i) Specified quality standards or

(ii) A method to determine such quality standards from published third party data; and

(10) Have been executed within 10 days after:

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(i) End of insurance period for insured crops or

(ii) Normal harvest date for NAP covered crops as determined by FSA.

(c) The purchaser of the commodity specified in the marketing contract must meet at least one of the following:

(1) Be a licensed commodity warehouseman;

(2) Be a business enterprise regularly engaged in the processing of a commodity, that possesses all licenses and permits for marketing the commodity required by the State in which it operates, and that possesses or has contracted for facilities with enough equipment to accept and process the commodity within a reasonable amount of time after harvest; or

(3) Is able to physically receive the harvested production.

(d) In order for the commodity specified in the marketing contract to be considered sold pursuant to the marketing contract, the commodity must have been produced by the participant in the crop year specified in the contract, and at least one of the following conditions must be met:

(1) Commodity was sold under the terms of the contract or

(2) Participant attempted to deliver the commodity to the purchaser, but the commodity was rejected due to quality factors as specified in the contract.

(e) The amount of payment for affected production, as determined in § 760.817(b), sold pursuant to one or more marketing contracts will take into consideration the marketing contract price as determined by FSA.

(f) County committees have the authority to require a participant to provide necessary documentation, which may include, but is not limited to, previous marketing contracts fulfilled, to substantiate and validate quality standards in paragraph (b)(9) of this section and marketing contract price received for the commodity for which crop quality loss assistance is requested. In cases where the county committee has reason to believe the participant lacks the capacity or history to fulfill the quality provisions of the marketing contract the county

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committee will require such documentation.

§ 760.819 Misrepresentation, scheme, or device.

(a) A person is ineligible to receive assistance under this part if it is determined that such person has:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation under this program;

(3) Misrepresented any fact affecting a program or person determination; or

(4) Has violated or been determined ineligible under § 1400.5 of this title.

§ 760.820 Offsets, assignments, and debt settlement.

(a) Except as provided in paragraph (b) of this section, any payment to any person will be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this title apply to any payments made under this part.

(b) Any participant entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this title.

(c) A debt or claim may be settled according to part 792 of this chapter.

§ 760.821 Compliance with highly erodible land and wetland conservation.

(a) The highly erodible land and wetland conservation provisions of part 12 of this title apply to the receipt of disaster assistance for 2005, 2006, and 2007 crop losses made available under this authority.

(b) Eligible participants must be in compliance with the highly erodible land and wetland conservation compliance provisions for the year for which financial assistance is requested.

Subpart J—2005–2007 Livestock Indemnity Program

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